

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

Crl.MC.No. 3780 of 2007()

ST.1883/2006 of JUDL.MAGISTRATE OF FIRST CLASS COURT, ALATHUR

PETITIONER:

**GIRISH KUMAR, S/O.MANIKAN, AGED 31 YEARS,
MATTUPARA HOUSE, NEMMARA PO
PALAKKAD DISTRICT**

**BY ADV. SRI.JOHNSON P.JOHN
SRI.BABY MATHEW**

RESPONDENTS:

**1. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM**

**2. MURALEEDHARAN, S/O.NARAYANAN KUTTY NAIR,
AGED 52 YEARS, SAYUJAYAM, PALAPARAMBU,
NEMMARA PO, PALAKKAD DISTRICT**

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 18/12/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

R. BASANT, J.

.....
Crl.M.C. No. 3780 OF 2007
.....

Dated this the 18th day of December, 2007

O R D E R

Petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. Cognizance has been taken. The case was numbered as S.T.1883/06. On 22.8.07, on the ground that the petitioner was not present, a warrant of arrest has been issued against the petitioner. The case now stands posted to 22.12.07. The warrant of arrest issued by the learned Magistrate is chasing the petitioner.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under

Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in ***Alice George Vs. Deputy Superintendent of Police*** [2003 (1) KLT 339].

4. In the result, this petition is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the

learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. In the peculiar facts and circumstances of the case, there shall be a direction that the warrant of arrest issued against the petitioner shall not be executed till 22.12.07. On or before that date, the petitioner must appear before the learned Magistrate and seek regular bail.

6. Hand over copy of this order to the learned counsel for the petitioner today itself.

(R.BASANT, JUDGE)

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